

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

) Case No: 1:13-cv-942  
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) JURY DEMAND REQUESTED  
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) **CIVIL COMPLAINT**  
) **(Unlawful Debt Collection Practices)**  
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## COMPLAINT

PLAINTIFF, Phil Federspiel (Plaintiff), by his attorneys, KAHN AND ASSOCIATES, L.L.C., alleges the following against DEFENDANT, Enhanced Recovery Company, LLC (Defendant):

# INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq.* (FDCPA).

## JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and *28 U.S.C. 1367* grants this court supplemental jurisdiction over the state claims contained therein.
3. Because Defendant conducts business in Ohio, personal jurisdiction is established.

4. Venue is proper pursuant to 28 *U.S.C. 1391(b)(2)*.

### **PARTIES**

5. Plaintiff is a natural person who resides in the City of Medina, Medina County, Ohio and is allegedly obligated to pay a debt, and Plaintiff is a “consumer” as that term is defined by 15 *U.S.C. 1692a(3)*.
6. Pursuant to the definitions outlined in 15 *U.S.C. 1692a(1-6)*, Defendant is a debt collector and sought to collect a consumer debt from Plaintiff which was allegedly due and owing from Plaintiff, and Plaintiff is a consumer debtor.
7. Defendant is a Delaware limited liability company and debt collector with an office in Jacksonville, Florida.
8. Defendant uses instrumentalities of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another and is a "debt collector" as that term is defined by 15 *U.S.C. § 1692a(6)*.
9. Defendant is a collection agency that in the ordinary course of business, regularly, on behalf of itself or others, engages in debt collection.

### **FACTUAL ALLEGATIONS**

10. Beginning in approximately November 2012 and continuing into at least December 2012, the Defendant has placed telephone calls to the Plaintiff in connection with Defendant’s attempts to collect an allegedly due and owed consumer debt.

11. Defendant places these calls in an attempt to secure location or other information on a consumer debtor that Defendant identifies as “Tammy Dunn.”
12. Plaintiff has informed the Defendant on at least three occasions that the individual Defendant is seeking has not lived at that location for at least ten years.
13. Despite being informed on repeated occasions that the number it is using does not belong to the debtor being sought, Defendant continues to place calls to the Plaintiff’s number.
14. Defendant’s repeated calls to Plaintiff’s telephone number after being informed it is the wrong number evidences that Defendant intends for its calls to annoy or harass the Plaintiff.
15. Plaintiff has never requested Defendant contact him and having been informed numerous times that it is calling the wrong number, Defendant has no reasonable basis for belief that Plaintiff’s earlier response was in error or that Plaintiff will now provide complete contact information.

## **COUNT I**

### **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT**

16. Defendant violated the FDCPA based on the following:
  - a. Defendant violated §1692b(3) by, in a communication with a person other than the consumer, communicating with that person more than once unless requested to do so by that person, or without the reasonable belief that the earlier response was erroneous or incomplete and that the person now has correct or complete location information.
  - b. Defendant violated §1692d by engaging in conduct the natural

consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.

- c. Defendant violated §1692d(5) by causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

WHEREFORE, Plaintiff, Phil Federspiel, respectfully requests judgment be entered against Defendant, for the following:

17. Statutory damages of \$1000.00 pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*,
18. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*
19. Any other relief that this Honorable Court deems appropriate.

**DEMAND FOR JURY TRIAL**

Plaintiff, Phil Federspiel, requests a jury trial in this case.

RESPECTFULLY SUBMITTED,

KAHN & ASSOCIATES, L.L.C.

/s/ J. Daniel Scharville

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